

Message Text

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AMEMBASSY MOSCOW
AMEMBASSY PARIS
USMISSION NATO BRUSSELS
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C O N F I D E N T I A L SECTION 01 OF 03 BONN 20379

FOR EUR/CE

E.O. 11652: GDS
TAGS: PFOR PGOV EEC WB GW US UK FR UR
SUBJECT: BERLIN AND EC DIRECT ELECTIONS: SOVIET
PROTEST OF NOVEMBER 16

REFS: (A) BONN 20219; (B) MOSCOW 18075

BEGIN SUMMARY. AS PARTICIPANTS IN THE DECEMBER 8
QUADRIpartite SENIOR LEVEL MEETING MAY WISH TO DISCUSS
THE GENERAL APPROACH TO BE USED IN ANSWERING THE
SOVIET DEMARCHE OF NOVEMBER 16, THE BONN GROUP HAS
CONSIDERED A FIRST DRAFT OF A LONG-FORM REPLY. THERE IS NO
AGREED TEXT AS YET, BUT THE DEPARTMENT MAY WISH TO

GIVE PRELIMINARY CONSIDERATION TO THE ISSUES IN PREPARATION
FOR THE SENIOR LEVEL MEETING. END SUMMARY.

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1. AT THE DECEMBER 2 BONN GROUP MEETING, US REP TABLED A DRAFT TEXT WHICH RESPONDS IN DETAIL TO THE NOVEMBER 16 SOVIET PROTEST (REF B) ON THE PROPOSED EXTENSION TO BERLIN OF THE ACT OF THE EC ON DIRECT ELECTIONS TO THE EUROPEAN PARLIAMENT. THERE IS AS YET NO AGREEMENT WITHIN THE BONN GROUP AS TO WHETHER IT WOULD BE PREFERABLE TO GIVE THE SHORTEST OR THE FULLEST POSSIBLE RESPONSE, BUT MOST BONN GROUP REPS TEND TO BELIEVE THAT A DETAILED REPLY IS CALLED FOR.

2. THE US DRAFT ANSWERS SOVIET MISSTATEMENTS ON THE ORIGIN OF ALLIED RIGHTS AND RESPONSIBILITIES IN BERLIN AND ALSO TREATS SOVIET ASSERTIONS OF A RIGHT OF "CO-DETERMINATION" ON THE ISSUE OF WHAT ACTIONS AFFECT MATTERS OF SECURITY AND STATUS IN BERLIN (REF A).

3. AGREEMENT WAS REACHED ON SOME PASSAGES OF THE US DRAFT, BUT FULLER DISCUSSION OF SOME OF THE BASIC ISSUES WILL BE REQUIRED BEFORE AGREEMENT IS REACHED ON AN AD REF TEXT. PARA D, FOR EXAMPLE, USES THE LANGUAGE ON SOLE RIGHT OF THE THREE POWERS TO DETERMINE MATTERS OF SECURITY AND STATUS WHICH WAS AGREED FOR THE PROPOSED BRIEFING PAPER ON BERLIN ISSUES, BUT THIS LANGUAGE HAS NOT PREVIOUSLY BEEN USED IN A NOTE TO THE SOVIETS. IN ADDITION, WE STILL NEED TO SORT OUT THE QUESTION OF RELEVANCE OF THE "EXISTING SITUATION" PROVISIONS OF THE QA TO THE BERLIN/EC RELATIONSHIP. EARLIER REPLIES TO PROTESTS ON EC MATTERS HAVE RELIED ON THE EXISTING SITUATION ARGUMENT; ALTHOUGH OUR SEPTEMBER 20 REPLY ON EC DIRECT ELECTIONS DID NOT, THE SOVIET STATEMENT OF NOVEMBER 16 SOUGHT TO REFUTE IT AS THOUGH IT HAD BEEN MADE.

4. AS QUESTIONS CONCERNING THE BERLIN/EC RELATIONSHIP ARE LIKELY TO FIGURE PROMINENTLY IN THE DISCUSSION AT THE SENIOR LEVEL MEETING, BONN GROUP REPS ARE OF THE OPINION THAT IT WOULD BE DESIREABLE FOR SENIOR OFFICIALS TO BE PREPARED TO DISCUSS THE QUESTION OF THE GENERAL APPROACH TO BE USED IN ANSWERING THIS AND FUTURE SOVIET PROTESTS. WE THEREFORE TRANSMIT BELOW THE TEXT
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OF THE PRESENT DRAFT FOR PRELIMINARY CONSIDERATION.
BY THE DEPARTMENT.

BEGIN TEXT

A. THE GOVERNMENT OF THE UNITED STATES HAS CAREFULLY CONSIDERED THE STATEMENT OF THE MINISTRY OF FOREIGN AFFAIRS OF THE USSR OF NOVEMBER 16, 1976,

IN CONSULATION WITH THE GOVERNMENTS OF FRANCE AND THE UNITED KINGDOM, AND HAS INSTRUCTED ME TO STATE THE FOLLOWING:

B. TO THE EXTENT THAT THE SOVIET STATEMENT IS CONCERNED WITH THE PROPOSED EXTENSION TO THE WESTERN SECTORS OF BERLIN OF THE ACT OF THE EUROPEAN COUNCIL OF SEPTEMBER 20, 1976, I RECALL AND REAFFIRM THE TERMS OF THE STATEMENT OF THE UNITED STATES GOVERNMENT OF

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SEPTEMBER 20, 1976. THE GOVERNMENTS OF THE UNITED STATES, FRANCE, AND THE UNITED KINGDOM HAVE AGREED THAT THE ACT OF SEPTEMBER 20, 1976, SHALL APPLY ALSO TO THE WESTERN SECTORS OF BERLIN, UNDER CONDITIONS DESCRIBED IN THAT STATEMENT. THEY CONFIRM THAT THE CONTINUED PARTICIPATION OF REPRESENTATIVES FROM BERLIN

IN THE EUROPEAN ASSEMBLY CANNOT IN THOSE CIRCUMSTANCES
CONSTITUTE A VIOLATION OF THE QUADRIpartite AGREEMENT
OF SEPTEMBER 3, 1971.

C. THE SOVIET STATEMENT OF NOVEMBER 16, HOWEVER,
GOES BEYOND THIS IMMEDIATE ISSUE AND RAISES
FUNDAMENTAL QUESTIONS BOTH WITH REGARD TO THE ORIGIN
AND EXTENT OF ALLIED RIGHTS AND RESPONSIBILITIES IN
BERLIN AND WITH REGARD TO POSSIBLE DEVELOPMENTS IN THE
FUTURE. AS FOR THE FORMER, THE RIGHTS AND
RESPONSIBILITIES OF THE FOUR POWERS IN BERLIN ARE
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BASED NOT ON QUADRIpartite AGREEMENTS AND DECISIONS BUT
ON THE TOTAL DEFEAT OF THE THIRD REICH AND THE
SUBSEQUENT ASSUMPTION OF SUPREME AUTHORITY IN GERMANY
BY THE FOUR POWERS. THE UNITED STATES HAS SCRUPULOUSLY
OBSERVED THE QUADRIpartite AGREEMENTS AND DECISIONS
WHICH WERE MADE ON THE BASIS OF THOSE ORIGINAL RIGHTS
AND RESPONSIBILITIES, INCLUDING THE AGREEMENTS AND
DECISIONS RELATING TO BERLIN.

D. THE GOVERNMENTS OF THE UNITED STATES, FRANCE
AND THE UNITED KINGDOM DO NOT OF COURSE DENY THAT THE
GOVERNMENT OF THE SOVIET UNION IS ENTITLED TO LOOK TO
THEM TO ENSURE THAT DEVELOPMENTS IN THE WESTERN SECTORS
OF BERLIN DO NOT VIOLATE QUADRIpartite AGREEMENTS AND
DECISIONS CONCERNING THE STATUS AND SECURITY OF THE
CITY, JUST AS THE THREE POWERS CONTINUE TO EXPECT THE
GOVERNMENT OF THE SOVIET UNION TO ENSURE THE SAME WITH
REGARD TO THE EASTERN SECTOR OF BERLIN.
BUT IT IS SOLELY FOR THE THREE POWERS, ACTING IN THE
EXERCISE OF THEIR SUPREME AUTHORITY IN THE WESTERN
SECTORS OF BERLIN, TO DETERMINE WHETHER A PARTICULAR
DEVELOPMENT AFFECTS MATTERS OF STATUS AND SECURITY.

E. THE GOVERNMENTS OF THE UNITED STATES, FRANCE
AND THE UNITED KINGDOM IN 1952/54 AUTHORIZED THE FEDERAL
REPUBLIC OF GERMANY, UNDER CERTAIN SPECIFIED CONDITIONS,
TO REPRESENT THE INTERESTS OF THE WESTERN SECTORS OF
BERLIN ABROAD AND TO EXTEND TO THE WESTERN SECTORS OF
BERLIN INTERNATIONAL AGREEMENTS AND ARRANGEMENTS WHICH
IT CONCLUDED. ONE OF THOSE CONDITIONS, OF COURSE, WAS
THAT ACTIONS TAKEN BY THE FEDERAL REPUBLIC OF GERMANY
ON THE BASIS OF THAT DELEGATED AUTHORITY NOT AFFECT
ALLIED RIGHTS AND RESPONSIBILITIES IN BERLIN OR MATTERS
OF SECURITY AND STATUS. ACTIONS IN THIS AREA ARE
REVIEWED BY THE ALLIED KOMMANDATURA TO ENSURE THAT
THOSE CONDITIONS ARE MET.

F. IN APPROVING THE EXTENSION TO THE WESTERN SECTORS OF BERLIN OF THE TREATY OF 1957 AND SUBSEQUENT CONSTITUTIVE TREATIES OF THE EUROPEAN ECONOMIC COMMUNITY, THE ALLIED KOMMANDATURA HAS TAKEN THE CONFIDENTIAL

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NECESSARY MEASURES TO ENSURE THAT THEIR APPLICATION IN THE WESTERN SECTORS OF BERLIN DID NOT AFFECT ALLIED RIGHTS AND RESPONSIBILITIES, INCLUDING RIGHTS AND RESPONSIBILITIES FOR MATTERS OF SECURITY AND STATUS. THE APPLICATION OF THESE TREATIES IN THE WESTERN SECTORS OF BERLIN UNDER THE PRESCRIBED CONDITIONS IS IN NO WAY INCOMPATIBLE WITH THE STATUS OF BERLIN, AND IT IS THEREFORE ERRONEOUS TO DESCRIBE AS ILLEGAL THE EXTENSION OF THE TREATIES IN QUESTION TO THE WESTERN SECTORS OF BERLIN. FOR THAT REASON, THE QUESTION OF WHETHER THE QUADRIPARTITE AGREEMENT OF SEPTEMBER 3, 1971, RETRO-ACTIVELY SANCTIONED THE EXTENSION OF THOSE TREATIES TO THE WESTERN SECTORS OF BERLIN SIMPLY DOES NOT ARISE.

G. WHILE THE STATEMENT OF THE MINISTRY OF FOREIGN AFFAIRS IS CORRECT IN OBSERVING THAT THE QUADRIPARTITE AGREEMENT TOOK NOTE OF THE FACT THAT THE WESTERN SECTORS OF BERLIN CONTINUE NOT TO BE A CONSTITUENT PART OF THE FEDERAL REPUBLIC OF GERMANY AND NOT TO BE GOVERNED BY IT, THE GOVERNMENT OF THE UNITED STATES DISAGREES WITH THE STATEMENT THAT THIS FACT, WHICH HAS BEEN TRUE SINCE THE FORMATION OF THE FEDERAL REPUBLIC OF GERMANY, WAS THE BASIS OF THE QUADRIPARTITE AGREEMENT OR THAT IT IS THE SOLE DETERMINANT OF THE POLICIES OF THE FEDERAL REPUBLIC OF GERMANY IN RELATION TO THE WESTERN SECTORS OF BERLIN.

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EQUALLY IMPORTANT IS THE STATEMENT IN THE QUADRIpartite AGREEMENT THAT THE TIES BETWEEN THE WESTERN SECTORS OF BERLIN AND THE FEDERAL REPUBLIC OF GERMANY WILL BE MAINTAINED AND DEVELOPED. ONE OF THOSE TIES IS THE INCLUSION OF THE WESTERN SECTORS OF BERLIN, UNDER CONDITIONS DISCUSSED ABOVE, IN THE AREA OF APPLICABILITY OF THE TREATIES OF THE EUROPEAN COMMUNITY ON THE BASIS OF THE MEMBERSHIP OF THE FEDERAL REPUBLIC OF GERMANY IN THE EUROPEAN COMMUNITY.

H. TO THE EXTENT THAT THE CONCERNS OF THE SOVIET UNION, AS EXPRESSED IN THE STATEMENT OF THE MINISTRY OF FOREIGN AFFAIRS OF NOVEMBER 16 AND THE ORAL EXPLANATIONS WHICH ACCOMPANIED ITS DELIVERY, ARE BASED ON SPECULATION ABOUT FUTURE DEVELOPMENTS TOWARD EUROPEAN UNION, THE GOVERNMENT OF THE UNITED STATES CONSIDERS IT UNNECESSARY TO COMMENT IN DETAIL.
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IT WILL TAKE A POSITION EACH TIME IT IS PROPOSED THAT BERLIN BE ASSOCIATED WITH A PARTICULAR COMMUNITY DEVELOPMENT, SEEING TO IT IN THE EXERCISE OF THE SUPREME AUTHORITY WHICH IT SHARES WITH FRANCE AND THE UNITED KINGDOM THAT NONE OF THESE DEVELOPMENTS AFFECTS THE STATUS OF BERLIN.

I. AS NEITHER THE LEGAL RIGHTS OF THE SOVIET UNION NOR THE PROPER OBSERVANCE OF THE QA HAS BEEN CALLED INTO QUESTION, THE GOVERNMENT OF THE UNITED STATES REJECTS AS TOTALLY UNWARRANTED THE

REFERENCE TO PROTECTIVE ACTIONS CONTAINED IN THE
SOVIET STATEMENT. END TEXT.
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